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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSHCO TECH, LLC, a Nevada limited
liability company,

Plaintiff,

v.

Michael Zuccarello, an individual; ZRM
Consulting, Inc., a California corporation,

Defendants.

Case No.: 2:20-cv-00497-JAD-DJA

**FIRST AMENDED COMPLAINT
(JURY DEMAND)**

Plaintiff JoshCo Tech, LLC (“JoshCo Tech”) hereby states its complaint against Defendants Michael Zuccarello and ZRM Consulting, Inc., the operators of the website veteranrating.com as follows.

JURISDICTION AND VENUE

1. This is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. § 101 *et seq.* This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this action arises under the laws of the United States.

2. This Court has specific personal jurisdiction over Defendants because Defendants have purposefully availed themselves of the privilege of conducting business in Nevada, and/or has engaged in tortious conduct in, or directed tortious conduct into, this judicial district and JoshCo Tech’s claim arises out of Defendants’ conduct in this judicial district.

3. Specifically, Michael Zuccarello and ZRM Consulting, Inc. registered and operate veteranrating.com, an interactive website accessible in Nevada that solicits veterans to input their

1 contact information into the website. Upon information and belief, Defendants then send Nevada
 2 residents forms that infringe Plaintiff's copyright, whether sending them physically, via e-mail, or
 3 directing veterans to a docu-sign link to the forms. Upon information and belief, Defendants have
 4 distributed forms that infringe Plaintiff's copyright to residents of Nevada and of this judicial
 5 district, and have thus committed the tort of copyright infringement in Nevada and aimed tortious
 6 action at Nevada.

7 4. On information and belief, Nevada is one of the states with the highest percentage
 8 of veterans comprising its population.¹ By specifically advertising to veterans, Defendants target
 9 Nevada and Nevada's veteran community.

10 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400 because
 11 Defendant is subject to personal jurisdiction and therefore "may be found" in this district.

12 **PARTIES**

13 6. JoshCo Tech is a Nevada limited liability company with its principal place of
 14 business in Las Vegas, Nevada.

15 7. Defendant Michael Zuccarello is a citizen and resident of the state of California and
 16 currently resides in San Diego, California.

17 8. Defendant ZRM Consulting, Inc. ("ZRM") is a California corporation. Upon
 18 information and belief, ZRM's principal place of business is San Diego County, California.

19 **GENERAL ALLEGATIONS**

20 **Benefits from the Veterans Administration**

21 9. The Veterans Administration ("VA") provides benefits to qualifying military
 22 veterans.

23 10. To apply for VA benefits, the VA requires a veteran to complete and submit certain
 24 information on VA-provided forms called Disability Benefits Questionnaires (DBQs); the precise
 25 form depends on the veteran's symptoms or disabilities.

26 ///

27 ¹ See, e.g., <https://www.usnews.com/news/best-states/slideshows/where-veterans-live>;
 28 [https://www.kolotv.com/content/news/1-in-11-Nevada-adults-are-veterans-high-rate-of-Vietnam-](https://www.kolotv.com/content/news/1-in-11-Nevada-adults-are-veterans-high-rate-of-Vietnam-vets-here-456778053.html)
[vets-here-456778053.html; http://www.veteransdata.info/maps.](http://www.veteransdata.info/maps)

1 11. The VA maintains at least seventy different forms of which a veteran may be
2 required to complete when applying for VA benefits.

3 12. The forms are long, tedious, and difficult to read and decipher, especially for
4 disabled individuals, like those seeking benefits from the VA.

5 13. From the information provided in the forms and under the VA guidelines, the VA
6 determines the veteran's disability rating and issues, if any, corresponding benefits based on that
7 rating.

8 **JoshCo Tech and its Copyrighted Forms**

9 14. Joshua Smith ("Mr. Smith") is a former U.S. Marine who was previously employed
10 at the VA to assign veteran disability ratings.

11 15. During his tenure at the VA, Mr. Smith discovered many inefficiencies in the way
12 veteran disability ratings were assigned and witnessed firsthand how the VA's system to adjust
13 veteran disability ratings was, more often than not, designed to work against veterans and the
14 intended goals of the system.

15 16. These flaws generally lead to grossly lower veteran disability ratings, which in turn
16 shortchange veterans from receiving the appropriate benefits that they deserve.

17 17. Mr. Smith eventually left the VA and began using his knowledge to help guide
18 veterans who are either seeking VA benefits for the first time or seeking to increase their VA
19 benefits.

20 18. Mr. Smith spent a significant amount of time and money to develop various
21 technologies and intellectual properties, including but not limited to methodologies, practices,
22 techniques, and processes, to collect, consolidate, and convey relevant client information and to
23 evaluate client disabilities in order to increase client disability ratings under the VA guidelines.

24 19. The result of Mr. Smith's labors included the creation of copyrighted works ("mini-
25 DBQs"), which synthesize and simplify information about the veteran's health, explain the
26 information required by the VA to the veteran by way of textual explanations and accompanying
27 art, and assist the veteran with efficiently and effectively applying for VA benefits or challenging
28 an existing disability rating.

20. On September 28, 2018, a U.S. copyright registration for the mini-DBQs issued to Mr. Smith (Copyright Registration No. TX0008661036) ("Copyright Registration"). Attached hereto as Exhibit A is a true and accurate copy of the Copyright Registration.

21. Mr. Smith later assigned the Copyright Registration to his company, JoshCo Tech, and JoshCo Tech currently owns the Copyright Registration.

Defendants' Infringing Acts

22. In 2015, Mr. Smith formed Valued Veteran Consulting Services ("VVCS") with his wife and another business partner. VVCS was formed in order to use the systems, processes, and procedures Mr. Smith and developed to assist veterans in seeking to obtain or increase benefits from the VA. Defendant Zuccarello was brought in to provide IT and other assistance to VVCS.

23. Mr. Smith authorized VVCS to use the systems, processes, and procedures he had developed, including the mini-DBQs.

24. In 2017, the Smiths, their other business partner, and Zuccarello formed MJJ&L as a holding company for other business ventures in which the parties were engaged or might become engaged. MJJ&L is a member-managed LLC. Zuccarello is a manager of MJJ&L.

25. In or about May 2018, the Smiths approached the other business partner and Zuccarello about retaining a consultant to help run the business more efficiently. After the consultant was retained by unanimous vote, however, the other business partner and Zuccarello stopped showing up for work at VVCS, and instead, they blocked the Smiths from accessing VVCS's email, the website, and customer relationship management software, which rendered VVCS unable to conduct its business. The other business partner and Zuccarello also forced the Smiths out of MJJ&L's management and operations and essentially utilized MJJ&L as a competing company by replicating VVCS's entire business model, including the utilization of the mini-DBQs.

26. As of June 1, 2018, at the latest, Zuccarello was not authorized to copy, reproduce, distribute, or display the copyrighted mini-DBQs.

27. However, Zuccarello has continued to use a number of different companies and different websites to compete with VVCS, copy its business model, and assist veterans in

1 obtaining higher disability ratings.

2 28. Upon information and belief, Zuccarello founded ZRM in January 2017 and uses
3 the corporation to operate one of the aforementioned competing businesses and websites.

4 29. Upon information and belief, Zuccarello and ZRM registered the domain name
5 veteranrating.com in April 2017, used a privacy protection service to hide their ownership, and
6 used the website (along with other websites) to market to veterans and ultimately sell them
7 services.

8 30. Despite lacking a license to the Copyright Registration, and upon information and
9 belief, Defendants Zuccarello and ZRM created, reproduced, distributed, and/or published forms
10 (“Infringing Forms”) substantially similar to JoshCo Tech’s mini-DBQs, copying or reproducing
11 the protected elements of Plaintiff’s copyrighted forms.

12 31. Defendants use the Infringing Forms to purportedly assist and guide veterans in
13 seeking to increase their VA benefits, including veterans in Nevada.

14 32. Veteranrating.com is an interactive website that advertises itself as “a FREE
15 resource that helps Veterans identify possible disabilities that warrant an increase based on the
16 severity of their symptoms. We refer to a network of highly knowledgeable, full-service
17 companies that collaborate with medical professionals who get to know Veterans, their
18 disabilities, and their needs.” (Ex. B, Capture of Veteranrating.com.)

19 33. The interactive website asks veterans to input their contact information and click on
20 the “Free Consultation” button. (*Id.*)

21 34. Veterans are told that by submitting their information, they “authorize
22 Veteranrating.com and/or its third-party affiliates to contact [them], even if [they] are on the Do
23 Not Call List.” (*Id.*)

24 35. Upon information and belief, Defendants use the contact information that veterans
25 enter into the interactive website to communicate with Nevadans, and send Nevada residents the
26 Infringing Forms, whether by physical mail, e-mail, and/or sending a docu-sign link to the
27 Infringing Forms.

28 ///

36. By sending Nevada residents the Infringing Forms, Defendants distribute Plaintiff's copyrighted forms in Nevada, infringing on Plaintiff's exclusive reproduction and distribution rights.

37. Plaintiff's claims for copyright infringement arise out of this Nevada reproduction and distribution.

38. Upon information and belief, after veterans return the completed Infringing Forms to Defendants, Defendants refer veterans to MJJ&L or another entity with which Zuccarello is affiliated with, and one of those companies enters into contracts with veterans to receive a commission payment if the company successfully assists the veteran in receiving increased benefits.

39. Upon information and belief, Defendants receive monetary compensation either directly (because Zuccarello is affiliated with MJJ&L and the other entities he uses) and/or as a referral payment for customers Defendants locate through veteranrating.com and then refer to MJJ&L or other entities.

40. Upon information and belief, Defendants assess which veterans to refer based on the information veterans provide in the Infringing Forms – and thus Defendants profit from their infringement of Plaintiff's copyright.

41. Zuccarello has admitted that MJJ&L has sent the Infringing Forms to at least 14 Nevada residents.

42. Zuccarello is the manager of another company called Zeplin Global, LLC ("Zeplin"). ZRM is a manager or member of Zeplin also.

43. Zuccarello has admitted that Zeplin has sent the Infringing Forms to at least 21 Nevada residents.

44. Zuccarello has further admitted that MJJ&L and Zeplin advertise to, and target, all 50 states, including Nevada.

45. Veteranrating.com is yet another website that Zuccarello, ZRM, and their affiliated companies use to advertise to and target veterans in Nevada – and to distribute JoshCo Tech's copyrighted forms.

46. Upon information and belief, Zuccarello instructed or approved the copying, publishing, and/or distribution of JoshCo Tech's mini-DBQs by others, including ZRM. As such, Zuccarello was involved in and contributed to the copying and distribution of the Infringing Forms.

47. Upon information and belief, Zuccarello either personally participated in ZRM's infringement or was the moving, active conscious force behind the company's infringement.

48. Upon information and belief, Zuccarello, with knowledge of the infringing activity taking place, induced, caused, materially contributed to, assisted, or encouraged the infringing activity.

Count I
(Direct Copyright Infringement, 17 U.S.C. § 501 *et seq.* against all Defendants)

49. JoshCo Tech incorporates each of the foregoing allegations as if set forth fully herein.

50. JoshCo Tech owns a valid copyright registration for its mini-DBQs.

51. Defendants copied, created derivative works, published, and/or publicly distributed the Infringing Forms based on the mini-DBQs without authorization.

52. Upon information and belief, Defendants knew or should have known that their acts constituted copyright infringement.

53. Defendants' infringing conduct was willful within the meaning of the Copyright Act of 1976.

54. As a direct and proximate result of Defendants' conduct, JoshCo Tech has suffered, and absent injunctive relief will continue to suffer, irreparable injury.

55. JoshCo Tech is entitled to an award of actual or statutory damages for each instance of copyright infringement by Defendants plus attorney's fees and all associated costs.

Count II
(Contributory Copyright Infringement against Defendant Zuccarello)

56. JoshCo Tech incorporates each of the foregoing allegations as if set forth fully herein.

57. Upon information and belief, Zuccarello intentionally induced, caused, materially contributed to, assisted or encouraged the infringement of JoshCo Tech's mini-DBQs by ZRM.

58. Upon information and belief, Zuccarello knew or should have known that ZRM was using and distributing Infringing Forms that were copied from JoshCo Tech's mini-DBQs.

59. As a direct and proximate result of Zuccarello's conduct, JoshCo Tech has suffered, and absent injunctive relief will continue to suffer, irreparable injury.

60. JoshCo Tech is entitled to an award of actual or statutory damages for each instance of contributory copyright infringement by Defendant Zuccarello plus attorney's fees, and all associated costs.

Count III
(Vicarious Copyright Infringement against Defendant Zuccarello)

61. JoshCo Tech incorporates each of the foregoing allegations as if set forth fully herein.

62. Upon information and belief, Zuccarello profited directly from the direct copyright infringement by ZRM.

63. Upon information and belief, Zuccarello had the right and ability to supervise the infringing activity and the right and ability to stop or limit such infringement.

64. Upon information and belief, Zuccarello promoted or induced the direct copyright infringement by ZRM.

65. As a direct and proximate result of Zuccarello's conduct, JoshCo Tech has suffered, and absent injunctive relief will continue to suffer, irreparable injury.

66. JoshCo Tech is entitled to an award of actual or statutory damages for each instance of vicarious copyright infringement by Defendants plus attorney's fees, and all associated costs.

PRAYER FOR RELIEF

WHEREFORE, JoshCo Tech prays for the following relief:

A. Entry of a final judgment in its favor and against Defendants;

B. Entry of an order temporarily, preliminarily, and permanently enjoining Defendants from using JoshCo Tech's copyrighted mini-DBQs or substantial reproductions of the same;

C. Entry of an order awarding JoshCo Tech damages, pursuant to 15 U.S.C. § 504;

D. Enter judgment in favor of JoshCo Tech and against Defendants for JoshCo Tech's costs and attorneys' fees incurred in this action, pursuant to 17 U.S.C. § 505; and

E. Such other and further relief as the court deems just and equitable.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated this 8th day of June, 2020.

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By: /s/ Meng Zhong

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